

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

U.S. SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

HARBINGER CAPITAL PARTNERS LLC; PHILIP A. FALCONE; AND PETER A. JENSON,

Defendants.

ECF CASE

Case No. 12-CIV-5028

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Philip A. Falcone and Harbinger Capital Partners LLC (“the Harbinger Defendants”) upon the accompanying Memorandum of Law In Support of Their Motion to Dismiss Plaintiff’s Complaint and the declaration of Matthew S. Dontzin and the exhibits annexed thereto, move this Court, before the Honorable Paul A. Crotty, to dismiss Plaintiff Securities and Exchange Commission’s complaint, dated June 27, 2012, for failure to state a claim upon which relief can be granted for reasons more fully explained in the accompanying memorandum in support.

WHEREFORE, the Harbinger Defendants respectfully request that this Court dismiss the Complaint in its entirety and grant such other relief as the Court may consider appropriate.

Dated: November 30, 2012  
New York, New York

**THE DONTZIN LAW FIRM LLP**

By: /s/ Matthew S. Dontzin  
Matthew S. Dontzin  
David A. Fleissig  
Tibor L. Nagy, Jr.  
Rachel K. Clapp  
6 East 81st Street  
New York, New York 10028  
Tel: (212) 717-2900  
Fax: (212) 717-8088

*Attorneys for Defendant Philip A. Falcone*

**PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP**

Leslie Gordon Fagen  
1285 Avenue of the Americas  
New York, NY 10019  
Tel: (212) 373-3000  
Fax: (212) 757-3990

*Attorneys for Defendant Harbinger Capital  
Partners LLC*